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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STEVEN E. BURTON-WHITEMORE,

Plaintiff,

-against-

ORDER
21-CV-0689(GRB)(JMW)

C.O. CHRISTIAN GROVER, C.O. JAMES
RILEY, SGT, JOSEPH NOLAN, NURSE JEANINE
SALVAGGIO, and JANE DOE #2,

Defendants.

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WICKS, Magistrate Judge:

Before the Court is Defendants' motion for an Order, pursuant to Fed. R. Civ. P. 37(a)(3), to compel plaintiff to respond to Defendants' discovery requests. (DE 20.) *Pro se* Plaintiff Steven E. Burton-Whitmore commenced this 42 U.S.C. § 1983 Civil Rights action against Defendants on February 8, 2021. (DE 1). Defendants filed their Answer to the Complaint on April 12, 2021. (DE 14.) On April 26, 2021, this Court "so ordered" a Scheduling Order for pre-trial discovery. (DE 15.) Pursuant to the Scheduling Order, all parties were required to serve and file written narrative statements of the facts they anticipate presenting at trial, and to immediately serve interrogatories/document demands pursuant to Fed. R. Civ. P. Rule 33 and 34. (*Id.*) Any objections to interrogatories/document demands were required to be served and filed within thirty days after receipt of the interrogatory/demand. (*Id.*)

Upon reassignment of this matter to the undersigned, the parties were advised that the Scheduling Order remained in effect, and *pro se* Plaintiff was ordered to file and serve his narrative statement by no later than June 7, 2021. (DE 5/27/2021.) The docket sheet indicates that a copy of the May 27, 2021 Order was provided directly to Plaintiff. (DE 16.) Plaintiff

served and filed his narrative statement on June 7, 2021. (DE 17). Defendants assert that they served interrogatories on plaintiff on April 27, 2021, that Plaintiff did not respond, and that they sent a good faith letter to Plaintiff on June 16, 2021, to which he did not respond. (DE 20.) Defendants further assert that on June 21, 2021, they sent Plaintiff two authorizations for the release of his medical records, but he returned them to Defendants unsigned. (*Id.*) Defendants filed this Motion to Compel on July 7, 2021. (DE 20.) On August 9, 2021, the undersigned issued an Order directing Defendants to serve Plaintiff with the Motion (DE 20) via return receipt delivery and to file proof of service with the Court, and directing Plaintiff to respond within 7 days of receipt of the Motion. (DE 8/9/2021.) The Court ordered Defendants to immediately forward a copy of said Order to Plaintiff via return receipt delivery and file proof of service with the Court. (*Id.*) That same day, August 9, 2021, Defendants filed a Certificate of Service in compliance with the Court's 8/9/2021 Order. (DE 21). To date, Plaintiff has not filed a response.

“[W]hile pro se litigants may in general deserve more lenient treatment than those represented by counsel, all litigants, including pro ses, have an obligation to comply with court orders. When they flout that obligation they, like all litigants, must suffer the consequences of their actions.” *Wilson v. Austin*, No. 11-CV-4594 (SJF) (GRB) 2013 WL 3226769, at *2 (E.D.N.Y. Jun. 25, 2013) (citing *McDonald v. Head Criminal Court Supervisor Officer*, 850 F.2d 121, 124 (2d Cir. 1988)).

Accordingly, Plaintiff is hereby directed to respond to Defendants' interrogatories and discovery demands no later than September 30, 2021. **Plaintiff is hereby forewarned that a failure to comply with this Order will result in a Report and Recommendation to the District Judge that this action be dismissed with prejudice for a failure to prosecute.**

Defendants are directed to serve a copy of this Order to *pro se* Plaintiff by certified mail, return receipt requested and file proof of service of same.

Dated: Central Islip, New York
September 3, 2021

S O R D E R E D:

/s/ *James M. Wicks*

JAMES M. WICKS
United States Magistrate Judge